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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,) Case No. CR 17-00574
15 Plaintiff,)
16 v.) ~~[PROPOSED]~~ ORDER OF DETENTION OF
17 MARVIN GUSTAVO BENEGAS-CASTRO,) DEFENDANT MARVIN GUSTAVO
18 Defendant.) BENEGAS-CASTRO
19
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21 The defendant, Marvin Gustavo Benegas-Castro, came before the Court on November 9, 2017,
22 for a detention hearing. The defendant was present and represented by his counsel, Assistant Federal
23 Public Defender Grace DiLaura, and assisted by a Spanish-language interpreter. Special Assistant
24 United States Attorney Christopher Vieira represented the United States.

25 The government requested detention, submitting that no condition or combination of conditions
26 would assure the defendant's appearance at future proceedings. Pretrial Services submitted a report
27 recommending detention on the basis that the defendant is a flight risk.

28 [PROPOSED] DETENTION ORDER
NO. CR 17-00574

FILED

NOV 16 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Upon consideration of the Pretrial Services report, the court file, and the party proffers as
2 discussed below, the Court finds on the present record by a preponderance of the evidence that no
3 condition or combination of conditions would assure the defendant's future appearance. The Court
4 orders the defendant detained.

5 The present order supplements the Court's findings at the detention hearing and serves as written
6 findings of fact and statement of reasons as required by 18 U.S.C. § 3142(i).

7 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141-3150, sets forth the factors which the Court
8 must consider in determining whether pretrial detention is warranted. In coming to its decision, the
9 Court has considered those factors, paraphrased below:

- 10 (1) the nature and seriousness of the offense charged;
11 (2) the weight of the evidence against the person;
12 (3) the history and characteristics of the person including, among other considerations,
13 employment, past conduct and criminal history, and records of court appearances; and
14 (4) the nature and seriousness of the danger to any person or the community that would be posed
15 by the person's release.

16 18 U.S.C. § 3142(g).

17 At the time of his detention hearing, defendant Marvin Gustavo Benegas-Castro was charged in a
18 Complaint with a violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) —
19 Possession of Heroin with Intent to Distribute.

20 The Pretrial Services report reflected the following facts:

- 21 ♦ The defendant is not a United States citizen.
22 ♦ The defendant's parents, several siblings, wife, and child live in Honduras.
23 ♦ The defendant reported having no present employment.
24 ♦ The defendant has a limited residential history in the Northern District of California.
25 ♦ The defendant did not have a suitable surety.

- 1 ♦ The defendant's criminal history report reflects two convictions for violating 8 U.S.C.
2 § 1325 – Illegal Entry into the United States and one conviction for violating 8 U.S.C.
3 § 1326 – Illegal Reentry of a Removed Alien.

- 4 ♦ The defendant has previously used ten different aliases and three dates of birth.

5 The defendant did not proffer that Pretrial Services' reported facts were inaccurate.

6 In considering all of the facts and proffers presented at the hearing, on the present record the
7 Court finds the following factors among the most compelling in reaching its conclusion that no
8 combination of conditions could reasonably assure the defendant's appearance as required: First, the
9 defendant does not have United States citizenship, he has three prior immigration-related convictions,
10 and he has current ties to Honduras through his wife and child who reside there. Second, the defendant
11 has a limited residential history in the Northern District of California and no current employment.
12 Third, the defendant has previously used ten different aliases and three different dates of birth.

13 Accordingly, pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

14 (1) the defendant is committed to the custody of the Attorney General for confinement in a
15 corrections facility;

16 (2) the defendant be afforded reasonable opportunity for private consultation with his counsel;
17 and

18 (3) on order of a court of the United States or on request of an attorney for the government, the
19 person in charge of the corrections facility in which the defendant is confined shall deliver the defendant
20 to an authorized Deputy United States Marshal for the purpose of any appearance in connection with a
21 court proceeding.

22 Dated: November 16, 2017

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25 HON. JOSEPH C. SPERO
26 United States Chief Magistrate Judge
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